BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.9511 of 2016
and
W.M.P(MD)No.7568 of 2016

S.Syed Yacoob ... Petitioner

Vs.

1. The Commissioner
   Tiruchirappalli City Corporation.

2. The Assistant Commissioner,
   Tiruchirappalli City Corporation.

3. A.Chandrakanth
4. S.Syed Liakkath ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in Na.Ka.No.A6/6289/2014/SRI, dated 27.04.2016 and quash the same and consequently direct the respondents 1 and 2 to continue their assessment of property bearing Door No.8, Kasaaikadal lane Ward No.17, Srirengam Division, Tiruchirappalli Corporation in the name of Late Abdul Azeem.

For Petitioner : Mrs.J.Maria Roseline
For Respondents : Mr.N.S.Karthikeyan,-R1 & R2
Standing Counsel
: No Appearance -R3 & R4

O R D E R

This writ petition has been filed, seeking to quash the impugned order, dated 27.04.2016, issued by the second respondent, vide which, the tax assessment, which was originally issued in the name of the deceased Abdul Azeem, has been unilaterally changed in the name of the third respondent. The petitioner also sought a consequential direction to the respondents 1 and 2 to continue their assessment of property bearing Door No.8, Kasaaikadal lane Ward No.17, Srirengam Division, Tiruchirappalli Corporation in the name of late Abdul Azeem.

2. Heard the learned Counsel appearing on either side.

Though notice has been issued to the respondents 3 and 4 and their names also printed in the cause list, none appeared on behalf of them.

3. It is the case of the petitioner that the property in question originally belonged to one Abdul Azeem, who died on 22.02.2002 as unmarried. After his death, the fourth respondent, on the false pretext that Abdul Azeem executed a gift deed (Hiba) on 22.11.2001 had filed a suit before the III Additional District Munsif Court, Tiruchirappalli, in O.S.No.960 of 2002 for grant of legal heir certificate to the fourth respondent, by claiming himself to be the sole legal heir of the deceased Abdul Azeem. It is the further case of the petitioner that even prior to the suit filed by the fourth respondent, the writ petitioner and other legal heirs of the deceased Abdul Azeem approached the Tahsildar, for issuance of legal heir certificate. Since, there is no response for the same, they also filed a suit in O.S.No.1264 of 2002 before the I Additional District Munsif Court, Tiruchirappalli, seeking for the relief of declaration in respect of the legal heirs of the deceased. It is submitted by the petitioner that during the pendency of both suits, the fourth respondent discretely transferred the property to one K.Saravanan on 19.03.2010, who in turn sold the property in favour of the third respondent on 28.03.2012, pursuant to which, the fourth respondent withdrew his suit. It is further submitted that the petitioner and other legal heirs filed a suit in O.S.No.97 of 2014 on the file of I Additional District Munsif Court, Trichy, seeking to declare those sale deeds dated 19.03.2010 and 28.03.2012 as null and void and not binding on the legal heirs of the deceased Abdul Azeem. At the instance of third respondent, the second respondent had changed the tax assessment in his name vide proceedings in BT No.34 of 2013, dated 26.03.2013 and subsequently, the impugned order dated 27.04.2016 came to be passed by the second respondent by changing the tax assessment from the name of the deceased Abdul Azeem to third respondent. Aggrieved over the same, the petitioner has come before this Court, seeking to quash the same.

4. According to the learned Counsel appearing for the petitioner, the mutation of records has been effected only on the basis of the legal opinion, without following the due process of law, though on earlier occasion, an enquiry was conducted by the authority concerned before making entries in the revenue records, by duly adhering to all the legal parameters. Therefore, the impugned order is ex-facie illegal and the same is liable to set aside.

5. At this juncture, the learned Standing Counsel appearing for the respondents 1 and 2 has fairly submitted that the authority concerned, who is competent to take a decision in this matter, is inclined to conduct a proper enquiry by duly providing an opportunity of hearing both to the petitioner as well as other interested parties. The said submission made by the learned standing counsel for the respondents 1 and 2 is recorded.

6. In view of the above submission, this petition is allowed. The impugned order in Na.Ka.No.A6/6289/2014/SRI, dated 27.04.2016, passed by the second respondent is set aside and the matter is remitted to the respondents 1 and 2, who in turn are directed to pass appropriate orders, after affording due opportunity of hearing to the petitioner as well as other interested parties, if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Commissioner
   Tiruchirappalli City Corporation.

2. The Assistant Commissioner,
   Tiruchirappalli City Corporation.

+ 1 CC TO Mr.J.MARIA ROSELINE, ADVOCATE IN SR No. 72667
+ 1 CC TO Mr.N.S.KARTHIKEYAN, ADVOCATE IN SR No. 72987

RM
TE/KP/SAR-I : 24/08/2017 : 3P/5C

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